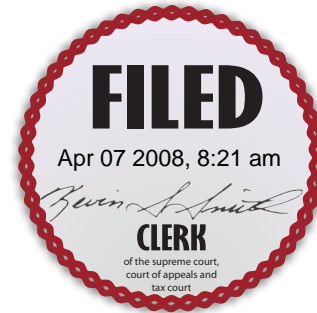


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

CHRIS M. TEAGLE
Muncie, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

SCOTT L. BARNHART
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JACK L. SMITH, SR.,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 38A02-0711-CR-964

APPEAL FROM THE JAY SUPERIOR COURT
The Honorable Joel D. Roberts, Judge
Cause No. 38D01-0704-FD-00029

April 7, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Jack L. Smith (“Smith”) was convicted in Jay Superior Court of Class D felony voyeurism, found to be a habitual offender and was sentenced to six and one half years. Smith appeals and argues that the evidence is insufficient to sustain his conviction.

We affirm.

Facts and Procedural History

Smith lived with his mother (“M.S.”) and daughter (“A.S.”) at his mother’s house in Portland, Indiana during all times relevant to this case. Smith lived in the upstairs bedroom while his mother and 23 year-old daughter each lived in bedrooms downstairs. The only bathroom was downstairs.

On April 10, 2007, A.S. awoke and showered at 9:30 a.m. She left for work with M.S. at approximately 11:00 a.m. Smith left for work at approximately 3:00 p.m. A.S. returned later that evening. As per her usual habit, she went to the upstairs bedroom where the TV and VCR were located to watch a show she had taped earlier that day. When she turned on the TV, A.S. saw a live video image of the bathtub downstairs. A.S. called M.S. and her uncle to investigate.

Her uncle located and removed a video camera from behind a small hole in the bathtub. The video camera was placed in such a manner as to show an image of a person who was in the bathtub. Neither A.S. nor M.S. had given permission to anyone to put a camera in the bathroom.

They called the police who arrived and waited for Smith’s return. Upon his return, Smith admitted to placing the camera in the bathtub that day but claimed that he had not yet actually viewed anyone. Smith was charged with Class D felony voyeurism on April

12, 2007. After a jury trial on August 8-9, 2007, he was found guilty as charged. Smith appeals.

Discussion and Decision

Smith's argument, in its entirety, is that "[t]here was no evidence presented to indicate that Jack [Smith] had used the equipment to view the area of the bathroom while it was occupied by A.S.." Br. of Appellant at 8. Smith's brief fails to set forth a cogent argument or support his bald assertion with any citation to authority or portions of the record. "A party waives an issue where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the record." Lyles v. State, 834 N.E.2d 1035, 1050 (Ind. Ct. App. 2005), trans. denied; Ind. Appellate Rule 46(A)(8)(a) (2008). Thus, we conclude that Smith's issue is waived for appeal.

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.